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REMARKS

This Response is submitted in reply to the final Office Action mailed on November 29, 2005, issued in connection with the above-identified application. Claims 1-42 are pending in this application. No claims have been amended and no new matter has been added as a result of this Response. Entry and favorable reconsideration are respectfully requested.

I. Examiner Interview

In order to facilitate prosecution, an interview was held between Examiner Horn and the Applicant's representative on March 29, 2006. At the outset, the Applicant would like to thank the Examiner for granting the interview on such short notice. During the interview, the main reference Prismantas was discussed along with distinguishable features of the present invention. In particular, during the interview, it was pointed out that at least the limitation "transmitting of a ranging message according a selected transmission class over a channel" recited in independent claims 1, 8, 15, 22, 29 and 36 does not appear to be disclosed in Prismantas. At the conclusion of the interview, Examiner Horn agreed that the above claim element may not be disclosed in the cited section (¶26) of Prismantas, but that further consideration of the reference was required before any conclusions could be reached.

II. Allowable Subject Matter

The Applicant notes with appreciation that dependent claims 6, 13, 20, 27, 34, and 41 would be deemed allowable if each claim was rewritten in independent form to include the limitations of their base claims and any intervening claims. However, the Applicant has chosen not to rewrite the claims, as suggested, at this time. The arguments presented herein are believed to be sufficient to overcome the rejections to the base claims from which dependent claims 6, 13, 20, 27, 34 and 41 depend.

III. Response To Claim Rejections

Claims 1, 3-4, 8, 11, 15, 17-18, 22, 25, 29, 32, 36 and 38-39 stand rejected under 35 U.S.C. §102(e) as being anticipated by Prismantas et al (U.S. Patent Application No. 2002/0155811, hereafter "Prismantas"). Claims 5, 10, 12, 19, 24, 26, 31, 33, and 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Prismantas in view of Enns et al. (U.S. Patent Application No. 2003/0161263, hereafter "Enns"). Claims 2, 7, 9, 14, 16, 21, 23, 28, 30, 35, 37 and 42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over

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Prismantas in view of Parmenter (U.S. Patent No. 6,615,052, hereafter "Parmenter"). The Applicant respectfully traverses the rejections for the following reasons.

In the Office Action, the Examiner relies on Prismantas for disclosing all the elements are recited in independent claims 1, 8, 15, 22, 29, 36 (see Office Action, pages 2-3). However, as pointed out in the Examiner Interview, Prismantas appears to fall short of the present invention. The present invention, as recited in independent claims 1, 8, 15, 22, 29, 36, is directed to an apparatus, system, method and computer-readable medium for ranging in a radio communications system that includes transmitting a ranging message according to the selected transmission channel. Based on a response to the transmitted message, selective modifications are made to the transmission channel class based on the characteristics of the channel. In particular, Prismantas fails to disclose at least "transmitting of a ranging message according a selected transmission class over a channel," as specifically recited in independent claims 1, 8, 15, 22, 29 and 36.

In the Office Action, the Examiner relies on ¶26 of Prismantas for disclosing this feature. However, Prismantas instead appears to disclose a hub that monitors a channel and gathers data regarding interference. From the gathered data, the hub determines the optimum use of bandwidth for transmitting data to a user terminal, while avoiding detected interferences. The hub then uses a selected technique to transmit data to the user terminal. For example, the hub may modify the modulation output from the modems 105 (see, Prismantas, ¶26). Thus, in Prismantas, because the hub makes the modifications to the system, there would be no need to transmit a ranging message or make modifications based on a response to the transmitted ranging message. Additionally, the modifications to the system are made before any data is transmitted to the user terminals; in order to avoid the detected interference. This is quite different from the present invention as recited in claims 1, 8, 15, 22, 29 and 36. In the present invention, the modifications to the system are made not only after the ranging message is transmitted, but after a response to the ranging message is received.

Moreover, after a detailed review of Enns and Parmenter, the references do not appear to overcome the deficiencies noted above in Prismantas to render obvious any claims of the present invention. Therefore, even if it were appropriate for one of ordinary skill in the art to combine the teachings of Prismantas, Enns and Parmenter, the combination still would not teach or

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suggest each and every feature as recited at least in independent claims 1, 8, 15, 22, 29 and 36. In particular, the combination of Prismantel, Enns and Parmenter fails to teach or suggest "transmitting of a ranging message according a selected transmission class over a channel." Therefore, independent claims 1, 8, 15, 22, 29 and 36 are believed to be clearly distinguishable over the prior art of record. Likewise, dependent claims 2-7, 9-14, 16-21, 23-28, 30-34 and 37-42 are also believed to be clearly distinguishable over the prior art or record based on their respective dependencies from independent claims 1, 8, 15, 22, 29 and 36.

IV. Conclusion

In light of the above, the Applicant respectfully submits that claims 1-42 are both novel and non-obvious over the prior art of record. The Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If any additional fees are due in connection with this application as a whole, the Commissioner is authorized to deduct such fees from deposit account no. 02-1818. If such a deduction is made, please indicate the attorney docket no. PD-200372 (0115426-949) on the account statement.

Respectfully submitted,

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